IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.14254 of 2006
Date of Decision: 07.09.2006

Mehmood Ali .. Petitioner

versus

State of Haryana and others .. Respondents

CORAM : HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S.BEDI

Present : Mr. D.K.Jangra, Advocate for the petitioner

M.M.Kumar.J.(Oral)

This petition filed under Article 226 of the Constitution prays for issuance of direction to the respondents to permit the petitioner to join as S.S.Master (Guest Teacher) being senior to respondent No.6 on the ground that the District Education Officer had issued guidelines to the Head Master Incharge of the School (respondent No.4) on 22.8.2006 (P-2) that junior teacher according to age was to be relieved.

Brief facts of the case are that the petitioner was appointed as S.S.Master (Guest Teacher) at Government High School,Lohinga Kalan, District Mewat. He was relieved from the work on the ground that regular teacher had joined. The petitioner approached the Block Education Officer who directed that person junior to the petitioner should be relieved. Accordingly, one Afzalkhan who was stated to be junior to the petitioner was relieved and the petitioner was permitted to rejoin on the same day. On 19.8.2006, the petitioner was relieved (P-4) while retaining Ashok Kumar who is stated to be an other junior of the petitioner. The grievance made by the petitioner is that Ashok Kumar (respondent No.6) has been retained in

service despite the fact that the District Education Officer had desired that the person younger in age should be relived retaining the person who is older in age. The petitioner has claimed that he is older than respondent No.6 and therefore, deserves to be retained in preference to respondent No.6.

Having heard the learned counsel, we find that the seniority amongst the Guest Faculty Teachers is not maintained nor there is any rule which would require that a person older in age has to be retained in reference to the younger one in respect of Guest Faculty Teacher. On our repeated query from the learned counsel, we have not been informed of any statutory rules governing the aforementioned situation which may warrant issuance of direction to the respondents to perform its legal duty by enforcing a legal right accruing in favour of the petitioner. Therefore, no occasion is provided to issue any direction to respondents. If there is any guideline on the subject, it must be for the internal use and working of the department and then proper remedy for the petitioner would be to approach the department by raising any such issue. Therefore, we dismiss the writ petition with a liberty to the petitioner to approach the department.

(M.M.KUMAR)
JUDGE

September 7, 2006
"ravinder'

(M.M.S.BEDI)
JUDGE